



7020-02

## INTERNATIONAL TRADE COMMISSION

### Investigation No. 337-TA-1006

#### Certain Passenger Vehicle Automotive Wheels

#### **Commission Determination Not to Review Initial Determination Terminating the Investigation as to the Last Remaining Respondents; Termination of the Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 24) of the presiding administrative law judge (“ALJ”), terminating the above-captioned investigation as to respondents A-Z Wheels, LLC, Galaxy Wheels & Tires, LLC, and Infobahn International, Inc., all of San Diego, California (collectively, “the last remaining respondents”), based on withdrawal of the allegations in the complaint. The Commission has also determined to terminate the investigation.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter

can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on June 17, 2016, based on a complaint filed on behalf of Daimler AG of Stuttgart, Germany. 81 FR 39711-12. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of the following U.S. design patents and U.S. registered trademarks: D542,211 ("the 'D211 patent"); D582,330 ("the 'D330 patent"); D656,078; D569,776 ("the 'D776 patent"); D602,834; D582,328; D542,726 ("the 'D726 patent"); D604,221; D570,760 ("the 'D760 patent"); D544,823 ("the 'D823 patent"); D486,437; D562,207; D635,904; D618,150 ("the 'D150 patent"); D585,802; D532,733 ("the 'D733 patent"); D572,646; D578,949; D638,772 ("the 'D772 patent"); D522,946; D638,766; D610,516; 3,614,891; 4,423,458; 3,305,055; 1,807,353; 1,660,727; 657,386; 285,557; 4,076,271 ("the CLS 500 mark"); 3,224,584 ("the CLS 550 mark"); 3,039,265 ("the CLS 63 mark"); 2,876,643; 2,909,827; 2,654,240 ("the S 550 mark"); 2,712,292; 2,028,111; 2,699,216 ("the CLS-CLASS mark"); 2,716,842 ("the S-CLASS mark"); 2,599,862; 2,028,107; 4,669,601; 3,103,610; 2,028,112; 3,100,860; 2,026,254; 2,815,926; 3,221,423; 2,227,526; 3,019,109; 2,837,833 ("the ML mark"); and 2,529,332 ("the CLS mark"). The complaint further alleges that a domestic industry exists. The Commission's notice of investigation named as respondents O.E. Wheel Distributors, LLC ("OEWD") of Sarasota, Florida; Amazon.com, Inc. ("Amazon") of Seattle, Washington; A Spec Wheels & Tires, LLC d/b/a A SPEC Wheels & Tires ("ASPEC") of Hayward, California; American Tire Distributors Holdings, Inc. and American Tire Distributors, Inc. (collectively, "American Tire"), both of Huntersville, North Carolina; Onyx Enterprises Int'l Corp. d/b/a CARiD.COM ("Onyx") of Cranbury, New Jersey; Powerwheels Pro, LLC ("Powerwheels Pro") of Waterford, Michigan;

Trade Union International Inc. d/b/a Topline (“Trade Union”) of Montclair, California; and the last remaining respondents. The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *Id.* As detailed below, all other respondents have been terminated from the investigation based on settlement, consent order, and/or withdrawal of the allegations in the complaint.

On August 18, 2016, the Commission issued notice of its determination not to review the ALJ’s ID (Order No. 11) terminating the investigation as to ASPEC based on a consent order stipulation and proposed consent order. On September 30, 2016, the Commission issued notice of its determination not to review the ALJ’s ID (Order No. 14) terminating the investigation as to Powerwheels Pro based on a consent order stipulation and proposed consent order. On November 2, 2016, the Commission issued notice of its determination not to review the ALJ’s ID (Order No. 15) terminating the investigation as to the ’D726 patent and the CLS 500 mark based on withdrawal of the complaint as to these allegations. On December 2, 2016, the Commission issued notice of its determination not to review the ALJ’s ID (Order No. 16) terminating the investigation as to American Tire based on a consent order stipulation, proposed consent order, and settlement agreements. On December 16, 2016, the Commission issued notice of its determination not to review the ALJ’s IDs (Order Nos. 17, 18) terminating the investigation as to Onyx and Trade Union, each based on a consent order stipulation, proposed consent order, and settlement agreement. On the same date, the Commission issued notice of its determination not to review the ALJ’s ID (Order No. 19) terminating the investigation as to Amazon based on withdrawal of the allegations in the complaint as to Amazon. On January 6, 2017, the Commission issued notice of its determination not to review the ALJ’s ID (Order No. 21)

terminating the investigation as to the 'D211, 'D330, 'D776, 'D726, 'D760, 'D823, 'D150, 'D733, and 'D772 patents; and the CLS 500, CLS 550, CLS 63, S 550, CLS-CLASS, S-CLASS, ML, and CLS marks based on withdrawal of the complaint as to these allegations. On February 2, 2017, the Commission issued notice of its determination not to review the ALJ's ID (Order No. 23) terminating the investigation as to OEW based on a consent order stipulation, proposed consent order, and settlement agreement.

On January 17, 2017, the complainant filed an unopposed motion to terminate the investigation as to the last remaining respondents based on withdrawal of the allegations in the complaint as to these respondents. In the motion, the complainant states that there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.

The ALJ issued the subject ID on January 23, 2017, granting the motion for termination. He found that the motion satisfied Commission Rule 210.21(a)(1) (19 CFR 210.21(a)(1)) and that there are no extraordinary circumstances that warrant denying the motion. No party petitioned for review of the subject ID.

The Commission has determined not to review the ID and has terminated the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Lisa R. Barton

Secretary to the Commission

Issued: February 9, 2017

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